

§41.31

Product	Tax rate per pound* for removals during the following periods:	
	2002 to March 31, 2009	April 1, 2009 and after
Pipe tobacco	\$ 1.0969	\$ 2.8311
Roll-your-own tobacco	\$ 1.0969	\$ 24.78

* Prorate tax for fractions of a pound.

(b) *Classification.* (1) Pipe tobacco and roll-your-own tobacco, before removal subject to tax, must be put up in packages that conform to the requirements of §41.71 and of §41.72a or §41.72b as appropriate.

(2) Any tobacco that has been processed and that is removed in a package, as that term is defined in §41.11, that does not bear the notice for smokeless tobacco prescribed in §41.72 or the notice for pipe tobacco prescribed in §41.72a is deemed to be roll-your-own tobacco and subject to tax at the rate applicable to roll-your-own tobacco. A container of processed tobacco, the contents of which weigh 10 pounds or less (including any added non-tobacco ingredients or constituents), that is removed within the meaning of this part for any purpose other than destruction, export, delivery as a sample to a manufacturer of processed tobacco or tobacco products for the purpose of soliciting orders of processed tobacco, or for scientific testing or testing of equipment that results in the destruction of the processed tobacco or the return of the processed tobacco, is deemed to be a package offered for sale or delivery to the ultimate consumer.

(3) Subject to paragraph (b)(4) of this section, any tobacco that has been processed and that is removed in a package, as that term is defined in §41.11, is deemed to be roll-your-own tobacco and subject to tax at the rate applicable to roll-your-own tobacco, even though the package bears the notice required for pipe tobacco under §41.72a, if:

(i) The package does not bear the declaration "pipe tobacco" in direct conjunction with, parallel to, and in substantially the same conspicuousness of type and background as the brand name each time the brand name appears on the package; or

(ii) The package or accompanying materials bear any representation that would suggest a use other than as pipe tobacco. The term 'accompanying ma-

27 CFR Ch. I (4–1–13 Edition)

terials' includes, but is not limited to, any point of sale advertising or other printed product communications issued by the manufacturer or importer of pipe tobacco products. In addition, the inclusion of cigarette papers or tubes in a package bearing a 'pipe tobacco' declaration will suggest a use other than pipe tobacco.

(4) During the period from June 22, 2009, through March 23, 2010, importers may continue to remove products as pipe tobacco in packages that do not bear the declaration "pipe tobacco" in the manner prescribed in paragraph (b)(3)(i) of this section.

(26 U.S.C. 5702 and 5723)

[T.D. TTB-75, 74 FR 14483, Mar. 31, 2009, as amended by T.D. TTB-78, 74 FR 29415, June 22, 2009; T.D. TTB-81, 74 FR 48654, Sept. 24, 2009; T.D. TTB-104, 77 FR 37304, June 21, 2012]

§41.31 Cigar tax rates.

(a) Cigars are taxed at the following rates under 26 U.S.C. 5701(a):

Type and amount	Tax rate for removals during the following periods:	
	2002 to March 31, 2009	April 1, 2009 and after
Small cigars per thousand.	\$1.828	\$50.33
Large cigars*		
• percentage of sale price.	20.719%	52.750%
• but not to exceed—	\$48.75 per thousand.	\$0.4026 per cigar.

* For large cigars: Until March 31, 2009, the percentage tax rate applies when the sale price is \$235.294 per thousand or less, and the flat tax rate applies when the sale price is more than \$235.294 per thousand. On and after April 1, 2009, the percentage tax rate applies when the sale price is \$763.222 or less per thousand cigars, and the flat tax rate applies when the sale price is more than \$763.222 per thousand cigars.

(b) See §41.39 of this part for rules concerning determination of sale price of large cigars.

(c) Cigars not exempt from tax under 26 U.S.C. chapter 52 and the provisions of this part which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale.

[T.D. ATF-420, 64 FR 71942, Dec. 22, 1999. Re-designated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004; T.D. TTB-75, 74 FR 14484, Mar. 31, 2009]

§41.32 Cigarette tax rates.

Cigarettes are taxed at the following rates under 26 U.S.C. 5701(b):